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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/616,869	07/09/2003	Sandeep Gulati	18329-008001	1459

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FISH & RICHARDSON, PC
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EXAMINER

SKIBINSKY, ANNA

ART UNIT	PAPER NUMBER
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1631

NOTIFICATION DATE	DELIVERY MODE
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06/03/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PATDOCTC@fr.com

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/616,869	Applicant(s) GULATI, SANDEEP	
	Examiner ANNA SKIBINSKY	Art Unit 1631	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 05 May 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☒ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: see continuation sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☐ Applicant's reply has overcome the following rejection(s): _____.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____.
 Claim(s) objected to: _____.
 Claim(s) rejected: 1-10, 12, 13, 16-18, 64 and 65.
 Claim(s) withdrawn from consideration: 19-63.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see continuation sheet.
 12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
 13. ☐ Other: _____.

Anna Skibinsky, Examiner

/Lori A. Clow/
 Primary Examiner, Art Unit 1631

Continuation from Item 3 NOTE:

The proposed amendments to claim 1 introduces the change of limiting arrayed signal pattern to be generated by a specific device, wherein the signal pattern is in the spatial domain, the expressor function is in the spectral domain, and wherein the input signal is converted from the special domain to the spectral domain. The newly filed amendments are not entered because they require further search and consideration.

Continuation from Item 11 NOTE:

The rejections in the previous Office action mailed 1/30/2009 are the following: Claims 1-10,12,13,16-18,64 and 65 are rejected under 35 USC 101 and under 35 USC 103 (a) as being obvious over Pfeifer et al. in view of Vol' pov et al.

Applicants argue that the claims are directed to a processor and therefor satisfy the new statutory requirements under In re Bilski.

In response, the current office guidelines are the method claims must be "tied" to a machine (e.g. a suitably programmed computer) while product claims are still required to have a concrete, tangible and usefully result and stated in the 35 USC 101 rejection. Currently, Applicants have amended the claims to recite that the signal is generated from a machine. However, the process carried out by the processor still does not have a real world result (i.e. a concrete tangible and useful result) such as an output of the result of the process to a display.

Applicants argue that Pfeifer simulates interferometric measurement but does not perform interferometric analysis.

In response, the instant specification does not provide a limiting and therefor limit "performing interferometric analysis" to be something that excludes a simulation of interferometry as described by Pfeifer. Performing interferometric analysis embodies measuring interferometric related data generated with a simulation.

However, Applicants have now limited the arrayed signal patter to have been generated by a device as listed in claim 1. Therefore, in view of the instant limitation, if entered, the 35 USC 103 (a) rejection over Pfeifer et al. in view of Vol' pov et al. would be overcome.